



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R8-ES-2019-N014; FXES11140800000-189-FF08EVEN00]

Draft Habitat Conservation Plan and Draft Environmental Assessment for the California Department of Parks and Recreation, Oceano Dunes District, San Luis Obispo County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft habitat conservation plan (HCP) and associated draft environmental assessment (EA) for California Department of Parks and Recreation (CDPR) activities at Pismo State Beach and Oceano Dunes State Vehicular Recreation Area, San Luis Obispo County, California. The CDPR developed the draft HCP as part of their application for an incidental take permit (ITP) under the Endangered Species Act. The Service prepared a draft EA in accordance with the National Environmental Policy Act to evaluate the potential effects to the natural and human environment resulting from issuing an ITP to CDPR. We invite public comment on these documents.

DATES: Written comments should be received on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: *Obtaining Documents for Review:* You may download a copy of the draft habitat conservation plan and draft environmental assessment at <http://www.fws.gov/ventura/>, or you may request copies of the documents by U.S. mail (below) or by phone (see **FOR FURTHER INFORMATION CONTACT**).

Submitting Written Comments: Please send us your written comments using one of the following methods:

- *U.S. mail:* Stephen P. Henry, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.
- *Email:* fw8oceanoduneshcp@fws.gov. Please include Oceano Dunes HCP in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Lena Chang, Senior Fish and Wildlife Biologist, by phone at 805–677–3305, via the Federal Relay Service at 1–800–877–8339 for TTY assistance, or at the Ventura address (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft habitat conservation plan (HCP) and the associated draft environmental assessment (EA) for California Department of Parks and Recreation’s (CDPR’s) public use, recreation management, natural resources management, and park and beach management activities on 5,005 acres of Pismo State Beach and Oceano Dunes State Vehicular Recreation Area, in San Luis Obispo County, California. The CDPR developed the draft HCP as part of its application for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The Service prepared a draft EA in accordance with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) to evaluate the potential effects to the natural and human environment resulting from issuing an ITP to CDPR. We invite public comment on these documents.

Draft HCP Covered Species

The CDPR has developed a draft HCP that includes measures to mitigate and minimize impacts to the following 10 covered species:

Species	Listing Information
<i>Federally Listed as Endangered:</i>	
California least tern (<i>Sterna antillarum browni</i>)	June 2, 1970 (35 FR 16047)
Tidewater goby (<i>Eucyclogobius newberryi</i>)	February 4, 1994 (59 FR 5494)
Gambel’s watercress (<i>Rorippa gambelii</i>)	August 3, 1993 (58 FR 41378)
La Graciosa thistle (<i>Cirsium scariosum</i> var. <i>loncholepis</i>)	March 20, 2000 (65 FR 14888)
Marsh sandwort (<i>Arenaria paludicola</i>)	August 3, 1993 (58 FR 41378)
Nipomo Mesa lupine (<i>Lupinus nipomensis</i>)	March 20, 2000 (65 FR 14888)
<i>Federally Listed as Threatened:</i>	

Western snowy plover (<i>Charadrius nivosus nivosus</i>)	March 5, 1993 (58 FR 12864)
California red-legged frog (<i>Rana draytonii</i>)	May 23, 1996 (61 FR 25813)
<i>State Listed as Threatened:</i>	
Surf thistle (<i>Cirsium rothophilum</i>)	1990
Beach spectaclepod (<i>Dithyrea maritime</i>)	1990

The ITP would authorize take of the four animal species (California least tern, tidewater goby, western snowy plover, and California red-legged frog) incidental to otherwise lawful activities associated with the HCP-covered activities.

Background

Section 9 of the ESA prohibits the take of fish or wildlife species listed as endangered; as applicable to the species affected by the proposed action, the ESA implementing regulations also prohibit take of fish or wildlife species listed as threatened. "Take" is defined under the ESA to include the following activities: "[T]o harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct" (16 U.S.C. 1532); however, under section 10(a)(1)(B) of the ESA, we may issue permits to authorize incidental take of listed species. "Incidental take" is defined by the ESA as take that is incidental to, and not the purpose of, carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are in the Code of Federal Regulations (CFR) at 50 CFR 17.32 and 17.22, respectively. Under the ESA, protections for federally listed plants differ from the protections afforded to federally listed animals. Issuance of an incidental take permit also must not jeopardize the existence of federally listed fish, wildlife, or plant species. The permittees would receive assurances under our "No Surprises" regulations ((50 CFR 17.22(b)(5) and 17.32(b)(5)) regarding conservation activities for the covered species.

Proposed Activities

The CDPR has applied for an ITP that would authorize incidental take of the four covered animal species that could result from covered activities described in the HCP.

The covered area comprises 5,005 acres of Pismo State Beach and Oceano Dunes State

Vehicular Recreation Area. The covered area includes designated critical habitat for western snowy plover, tidewater goby, and La Graciosa thistle. The HCP describes measures CDPR will implement to avoid and minimize impacts and take of the covered species. Mitigation for unavoidable take would be accomplished through CDPR's existing conservation program and through meeting the biological goals and objectives outlined in the HCP. The conservation program is designed to protect and promote recovery of covered species, including managing habitat components to benefit covered species, minimizing human alteration or disturbance of native habitats, reducing conflicts between covered species and park users, restoring native habitats, and monitoring the success of these efforts.

Alternatives

We are considering four alternatives in the draft EA:

(1) The no action alternative, which would not result in issuance of an ITP for ongoing activities;

(2) The proposed action would be issuance of an ITP based on the activities described in draft HCP, including reduction of the existing protected area boundary ("southern enclosure") for the California least tern and western snowy plover;

(3) Issuance of an ITP based on the draft HCP maintaining the existing "southern enclosure boundary"; and

(4) Issuance of an ITP based on the draft HCP with year-round enclosures.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the ESA (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Stephen Henry,

Field Supervisor,

Ventura Fish and Wildlife Office,

Ventura, California.

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